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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

14 CR 590 (PGG)

5 SERGIO SANTOS,

6 Defendant.

7 -----x

8 New York, N.Y.
9 November 12, 2014
2:45 p.m.

10 Before:

11 HON. PAUL G. GARDEPHE,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the
Southern District of New York

17 MEGAN GAFFNEY

Assistant United States Attorney

18 JEREMY HOLLEMBEAK

19 Attorney for Defendant

20 ALSO PRESENT: JORDAN FOX, Spanish Interpreter

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1 (Case called)

2 THE COURT: All right. I'm told that the defendant
3 has an application to enter a plea of guilty. I believe it's
4 to an information. Is that true?

5 MR. HOLLEMBEAK: That is correct, your Honor.

6 THE COURT: Mr. Ruocco, would you please swear in the
7 defendant.

8 THE DEPUTY CLERK: Yes, your Honor.

9 (Defendant sworn)

10 THE COURT: Mr. Santos, you should understand that you
11 are now under oath. And if you answer any of my questions
12 falsely, your answers may later be used against you in another
13 prosecution for perjury or making a false statement.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: I have a written advice of rights form
17 before me in Spanish that appears to have been signed by you
18 and by your attorney.

19 Is this your signature on the advice of rights form?

20 THE DEFENDANT: Yes.

21 THE COURT: I will mark it as Exhibit 1 to these
22 proceedings.

23 I've also been handed a plea agreement. I'm going to
24 mark the plea agreement as Exhibit 2 to these proceedings.

25 Is this your signature on the plea agreement?

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1 THE DEFENDANT: Yes.

2 THE COURT: Before deciding whether to accept your
3 guilty plea, I am required to ask you certain questions. It's
4 important that you answer these questions honestly and
5 completely.

6 The purpose of these proceedings is to make sure that
7 you understand your rights, and for me to make certain that
8 you're pleading guilty of your own free will, and to make sure
9 that you're pleading guilty because you are, in fact, guilty,
10 and not for some other reason.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: If you don't understand any of my
14 questions or you want to consult with your attorney at any
15 time, please say so, because it is important that you
16 understand every question before you answer.

17 Could you state your full name for the record, please.

18 THE DEFENDANT: Sergio Martin Santos Ruiz.

19 THE COURT: And how old are you?

20 THE DEFENDANT: Forty-eight years old.

21 THE COURT: And how far did you go in school?

22 THE DEFENDANT: To high school.

23 THE COURT: Have you ever been addicted to any drugs
24 or alcohol or been treated for any addiction?

25 THE DEFENDANT: No.

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1 THE COURT: Are you now or have you recently been
2 under the care of any kind of a doctor?

3 THE DEFENDANT: No.

4 THE COURT: In the past 24 hours, have you taken any
5 drugs, medicine, or pills, or drunk any alcohol?

6 THE DEFENDANT: No.

7 THE COURT: Is your mind clear today and do you
8 understand what's happening?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Hollembeak, do you have any doubt as
11 to Mr. Santos's competence to plead guilty this afternoon?

12 MR. HOLLEMBEAK: No, your Honor.

13 THE COURT: Then on the basis of Mr. Santos's
14 responses to my questions, and my observations of his demeanor,
15 I do find that he's competent to enter an informed plea.

16 Mr. Santos, have you received a copy of the
17 information in this case which contains the charge against you?

18 THE DEFENDANT: Yes.

19 THE COURT: And has it been read to you in Spanish?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you want me to read it to you now, here
22 in open court?

23 THE DEFENDANT: No.

24 THE COURT: You should understand that you are charged
25 in the information with a felony offense of violating Title 18,

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1 United States Code, Section 1956(h), by willfully and knowingly
2 and conspiring with others to commit money laundering in this
3 case, with a specific intent to promote narcotics trafficking
4 and to conceal the proceeds of narcotics trafficking.

5 Do you understand that that is the charge against you?

6 THE DEFENDANT: Yes.

7 THE COURT: Have you had enough time to discuss your
8 case with your attorney?

9 THE DEFENDANT: Yes.

10 THE COURT: Have you discussed with him the charge
11 against you, including your intention to plead guilty?

12 THE DEFENDANT: Yes.

13 THE COURT: Have you discussed with him any possible
14 defenses you might have to the charge, as well as all the facts
15 about your involvement in this matter?

16 THE DEFENDANT: Yes.

17 THE COURT: And has your attorney told you about the
18 consequences of pleading guilty?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you satisfied with your attorney's
21 representation of you?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, I understand with respect to the
24 waiver of indictment that the defendant entered a waiver of
25 indictment some time ago, back in September of 2014; is that

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1 correct?

2 MR. HOLLEMBEAK: Yes, your Honor.

3 THE COURT: Mr. Santos, I am required to advise you of
4 certain constitutional rights that you have. These are rights
5 you'll be giving up if you enter a guilty plea. Listen
6 carefully to what I'm about to say. If you don't understand
7 something, stop me, and either myself or your attorney will
8 explain the matter to you more fully.

9 Under the Constitution and laws of the United States,
10 you have a right to a speedy and public trial by a jury on the
11 charge contained in the information.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: If there were a trial, you would be
15 presumed innocent, and the government would be required to
16 prove your guilt by competent evidence and beyond a reasonable
17 doubt. You would not have to prove you were innocent at a
18 trial.

19 Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: If there were a trial, a jury composed of
22 12 people selected from this district would have to agree
23 unanimously before you could be found guilty.

24 Do you understand that?

25 THE DEFENDANT: Yes.

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1 THE COURT: If you decided to go to trial, at that
2 trial and at every stage of your case, you would have the right
3 to be represented by an attorney. And if you could not afford
4 one, an attorney would be appointed to represent you at
5 government expense and at no cost to you.

6 If you retained a lawyer, and you ran out of money, an
7 attorney would be appointed to continue to represent you and to
8 handle your case all the way through trial, and not just for
9 purposes of a guilty plea. So your decision to plead guilty
10 should not depend on whether you can afford a lawyer.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: If there were a trial, you would have the
14 right to see and hear all the witnesses against you, and your
15 attorney could cross-examine them. You would have a right to
16 have your attorney object to the government's evidence, and to
17 offer evidence on your behalf if you so desired. You'd also
18 have the right to have subpoenas issued, to compel witnesses to
19 testify in your defense.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: If there were a trial, you would have the
23 right to testify, if you wanted to, but no one could force you
24 to testify if you did not want to. Furthermore, no inference
25 or suggestion of guilt could be drawn if you chose not to

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1 testify at trial.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: If you were convicted at a trial, you
5 would have the right to appeal that verdict to a higher court.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Even now, as you're entering this plea,
9 you have the right to change your mind, plead not guilty, and
10 go to trial on the charge contained in the indictment -- I'm
11 sorry, the information.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: If you plead guilty and I accept your
15 plea, you'll give up your right to a trial and the other rights
16 I just discussed, other than the right to a lawyer, which you
17 have regardless of whether or not you plead guilty.

18 If you plead guilty, I will enter a judgment of guilty
19 and sentence you on the basis of your plea after I have
20 considered a presentence report and whatever submissions and
21 arguments I receive from the lawyers.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: If you plead guilty, you will have to give
25 up your right not to incriminate yourself, because I will ask

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1 you questions about what you did in order to satisfy myself
2 that you are guilty as charged, and you will have to admit and
3 acknowledge your guilt.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: As I mentioned a moment ago, the
7 information charges you with conspiring to commit money
8 laundering; and it alleges that you engaged in this crime at
9 some point between 2012 and 2014.

10 I must now tell you the elements of that offense.
11 This is what the government would have to prove beyond a
12 reasonable doubt if the case were to go to trial:

13 First, the government would have to prove the
14 existence of the conspiracy charged in the information; in
15 other words, that at some point between 2012 and 2014, there
16 was, in fact, an agreement or understanding between two or more
17 people to violate those provisions of the law that make it a
18 crime to commit money laundering.

19 Now, let me explain what money laundering is.

20 A person commits money laundering when he or she
21 conducts or attempts to conduct a financial transaction
22 involving property that is known to that person to be the
23 proceeds of what the law refers to as specified unlawful
24 activity, in this case, narcotics trafficking. And that person
25 acts with the intent to promote that specified unlawful

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1 activity, and acts with the intent to conceal or disguise the
2 nature, location, source, ownership, or control of that
3 property.

4 The second element of a conspiracy to commit money
5 laundering that the government must prove beyond a reasonable
6 doubt is that you knowingly and willfully became a member of
7 that conspiracy; that is, that you knowingly associated
8 yourself with a conspiracy, and you participated in the
9 conspiracy to commit money laundering.

10 Do you understand that these are the elements of the
11 offense charged in the information?

12 THE DEFENDANT: Yes.

13 THE COURT: And do you further understand that the
14 government would be required to prove these elements beyond a
15 reasonable doubt?

16 THE DEFENDANT: Yes.

17 THE COURT: I must tell you the maximum and any
18 minimum possible penalty for this crime. The maximum means the
19 most punishment that could possibly be imposed. It does not
20 necessarily mean that is what you will receive, but you have to
21 understand that by pleading guilty, you are exposing yourself
22 to the possibility of receiving any combination of punishments
23 up to the maximum I'm about to describe.

24 Do you understand that?

25 THE DEFENDANT: Yes.

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1 THE COURT: The offense charged in the information
2 carries a maximum sentence of 20 years imprisonment. Any term
3 of imprisonment may be followed by a maximum of three years of
4 supervised release. "Supervised release" means that if you are
5 sentenced to prison, after you are released from prison, you
6 will be subject to supervision by the U.S. Probation Office.
7 There will be rules of supervised release that you will have to
8 follow. And if you violate those rules, you can be returned to
9 prison without a jury trial to serve additional time even
10 beyond your original sentence.

11 In addition, the crime to which you're pleading guilty
12 carries a maximum fine of the greatest of \$250,000, twice the
13 gross pecuniary gain derived from the offense, or twice the
14 gross pecuniary loss resulting from the offense.

15 Parole has been abolished in our federal system. And
16 if you are sentenced to prison, you will not be released early
17 on parole. There is a limited opportunity to earn credit for
18 good behavior, but you will have to serve at least 85 percent
19 of the time you are sentenced to.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: There is also a mandatory minimum fine or
23 special assessment of \$100 that I'm required to impose.

24 As part of your sentence, I can also order you to make
25 restitution to any person injured as a result of your criminal

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1 conduct. And I can also order you to forfeit certain property
2 to the government.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Being convicted of a felony may have other
6 consequences, such as the loss of licenses or the right to
7 possess a firearm. If you are a citizen of the United States,
8 you could lose your right to vote. If you are not a citizen of
9 the United States, you will likely lose your right to remain in
10 the United States, and you may be deported. This is not a full
11 list of the possible consequences of a felony conviction, but
12 these are examples.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: There are sentencing guidelines I'm
16 required to consult to determine the appropriate sentence in
17 your case.

18 Have you spoken with your attorney about the
19 sentencing guidelines?

20 THE DEFENDANT: Yes.

21 THE COURT: You should understand that I will not be
22 able to determine the recommended sentencing range under the
23 guidelines until after a presentence report has been prepared,
24 and your lawyer and the government have had an opportunity to
25 comment on that presentence report.

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1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: You should also understand that after I
4 determine what the recommended sentencing range is under the
5 guidelines and determine whether I believe that a departure,
6 either upward or downward from that range, is called for, I
7 will then determine what is an appropriate sentence in your
8 case, having in mind not only the sentencing guidelines, but
9 all of the factors set forth in the sentencing statute,
10 including the need for the sentence imposed to reflect the
11 seriousness of the offense, the need to promote respect for the
12 law, the need to provide just punishment, and the need to
13 afford adequate deterrence to criminal conduct.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: You should understand that if your
17 attorney or anyone else has attempted to estimate or predict
18 what your sentence will be, that their estimate or prediction
19 could be wrong.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: No one, not even your attorney or the
23 prosecutor, can, or should, give you any assurance of what your
24 sentence will be. Your sentence cannot be determined until
25 after the presentence report is prepared and I have ruled on

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1 any challenges to the report, determined whether I believe that
2 there are grounds to depart, upwards or downwards, from the
3 guidelines range, and otherwise determine what an appropriate
4 sentence is in your case.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: You should fully understand that even if
8 your sentence is different from what your attorney or anyone
9 else told you it might be, or if it is different from what you
10 expect, you will still be bound by your guilty plea, and you
11 will not be allowed to withdraw your plea of guilty.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: I have been given a plea agreement which I
15 marked as Exhibit 2 to these proceedings. You told me a moment
16 ago that it bears your signature. Was the agreement read to
17 you in Spanish before you signed it?

18 THE DEFENDANT: Yes.

19 THE COURT: And did you discuss the plea agreement
20 with your attorney before you signed it?

21 THE DEFENDANT: Yes.

22 THE COURT: And did you fully understand all the terms
23 of the agreement before you signed it?

24 THE DEFENDANT: Yes.

25 THE COURT: Does this agreement constitute your

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1 complete and total understanding of the entire agreement
2 between you and the government as to this matter?

3 THE DEFENDANT: Yes.

4 THE COURT: Has anyone offered you any inducements or
5 threatened you or forced you to plead guilty or to enter into
6 this plea agreement?

7 THE DEFENDANT: No.

8 THE COURT: You should understand that one of the
9 terms of the agreement is that so long as I sentence you to 71
10 months imprisonment or less, you may not appeal your sentence
11 or file any sort of challenge against your sentence.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Hollembeak, do you know of any valid
15 defense that would prevail at trial or any other reason why
16 your client should not be permitted to plead guilty?

17 MR. HOLLEMBEAK: No, your Honor.

18 THE COURT: And do you believe that there's an
19 adequate factual basis to support a guilty plea?

20 MR. HOLLEMBEAK: Yes, your Honor.

21 THE COURT: Ms. Gaffney, does the government represent
22 there's an adequate factual basis to support a guilty plea?

23 MS. GAFFNEY: Yes, your Honor, it does so represent.

24 THE COURT: All right.

25 Then, Mr. Santos, we have reached the point in the

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1 proceedings where I need you to tell me what you did that makes
2 you believe that you are guilty of the crime charged in the
3 information.

4 THE DEFENDANT: Should I stand up?

5 THE COURT: Yes.

6 THE DEFENDANT: From approximately March of 2013 -- I
7 mean 2012, until January of 2014, I was part of a conspiracy to
8 launder money. I knew that money laundering was the purpose of
9 a conspiracy, and I joined the conspiracy knowingly and
10 willingly.

11 I knew that the funds that I had been requested to
12 launder could have been the product of illegal activities,
13 including the possible sale of illegal drugs, and I purposely
14 avoided asking about the exact origin of these funds.

15 In particular, on or around March 13th of 2012, I had
16 a meeting with a co-conspirator in which the co-conspirator
17 advised me of his or her need to launder earnings.

18 In response, I informed the co-conspirator that I
19 could launder those funds for him, in which my associates would
20 turn over funds to his associates in the Dominican Republic.

21 Approximately -- subsequently or approximately on
22 January 16th of 2014, I made an agreement with a co-conspirator
23 to launder approximately \$280,000, which the co-conspirator
24 would bring me and I would later, through a series of
25 transactions, return the money back to the co-conspirator

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1 and/or his or her associates in the Dominican Republic
2 approximately one week later.

3 In exchange for my part in the conspiracy, I accepted
4 a six percent commission of any money laundered. I also
5 discussed possible future transactions with a co-conspirator
6 and his or her associates of the same nature. This reunion
7 occurred in person, at my place of business.

8 Both discussions were recorded by the co-conspirator
9 who was wearing a wire to further an investigation by federal
10 law enforcement agents, as set forth in the information.

11 I would like to add that I knew that my involvement in
12 the conspiracy was wrong and illegal, and I profoundly regret
13 my conduct.

14 My wife is in the courtroom today, but my children are
15 either at school or working and were unable to attend this
16 hearing. Nevertheless, I would like for them, my wife, and God
17 and the Court to know that I profoundly regret and am sorry for
18 what I did.

19 Thank you.

20 THE COURT: All right.

21 I gather from what you've said, Mr. Santos, that in
22 agreeing to launder the money that you've described, you were
23 working together with people down in Dominican Republic who
24 would provide the money to associates of the person you were
25 speaking with; is that right?

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1 THE DEFENDANT: I was doing the transactions.

2 THE COURT: Right. But the idea was to get the money
3 or to have the money provided down to the Dominican Republic,
4 right?

5 THE DEFENDANT: Correct.

6 THE COURT: So you had people that you were working
7 with down there.

8 THE DEFENDANT: They would do the deals. They would
9 come here to shop, I would lend them the money, and they would
10 make purchases.

11 THE COURT: Because the person that you were speaking
12 with on March 13th, 2012, and January 16th, 2014, if I
13 understood you correctly, that was a person who, unbeknownst to
14 you, was working with law enforcement.

15 THE DEFENDANT: Correct.

16 THE COURT: Okay. So I need you to understand that
17 that person cannot be a co-conspirator. You understand that,
18 right?

19 THE DEFENDANT: I didn't understand him to be a
20 co-conspirator; I just understood him to be an individual.
21 After speaking with my attorney, then I did understand the term
22 that I was supposed to use.

23 THE COURT: All right. Let me inquire of the
24 government.

25 I take it the government's theory for the conspiracy

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1 here is not that Mr. Santos conspired with the informant;
2 that's not the theory, right?

3 MS. GAFFNEY: That's right, your Honor. The
4 co-conspirators here would be associates in the Dominican
5 Republic.

6 THE COURT: All right. So that's why I'm making sure,
7 Mr. Santos, that you understand that the government informant
8 can't serve as a co-conspirator for purposes of the charge
9 against you, because if someone is acting on behalf of the
10 government, as this person was, they can't be part of a
11 conspiracy.

12 So the theory against you would have to be that you
13 were working together with someone down in the Dominican
14 Republic to launder these narcotics proceeds. And do you agree
15 that that's what you did?

16 THE DEFENDANT: No, it wasn't from the sale of
17 narcotics. It wasn't from the sale of narcotics. It was these
18 people who have money, they had \$280,000 that they wanted to be
19 sent down to Santo Domingo. He asked me if I could be the
20 intermediary by which he could get the money there.

21 THE COURT: I understand that.

22 What I understood you to have said is that you
23 suspected that these monies might be the proceeds of drug
24 trafficking. You suspected that, right?

25 THE DEFENDANT: Not exactly. I understood that they

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1 might be, but I never asked.

2 THE COURT: Right. And I think you told me that you
3 avoided asking what the source of the money was, right?

4 THE DEFENDANT: I didn't ask.

5 THE COURT: Right. But you made an intentional
6 decision not to ask what the source of the money was.

7 THE DEFENDANT: Well, yes.

8 THE COURT: Do you agree with that?

9 THE DEFENDANT: Yes.

10 THE COURT: So you told this person that you could
11 arrange for the money that person was giving you to be provided
12 down in the Dominican Republic.

13 THE DEFENDANT: Correct.

14 THE COURT: Now, you mentioned that you had a place of
15 business when you had these conversations about laundering
16 money. Where was that place? Where were you at the time?

17 THE DEFENDANT: Here, at 1590 St. Nicholas Avenue.

18 THE COURT: And that's in Manhattan?

19 THE DEFENDANT: Manhattan.

20 THE COURT: All right.

21 Does the government wish me to ask any additional
22 questions?

23 MS. GAFFNEY: No, your Honor.

24 THE COURT: All right.

25 Mr. Santos, at the time you were having these

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1 conversations, did you understand that what you were doing was
2 wrong and unlawful?

3 THE DEFENDANT: Not exactly. After speaking to my
4 attorney though, I understood how serious the case was.

5 THE COURT: All right.

6 I'll ask you now, are you pleading guilty because you
7 are guilty, and are you pleading guilty voluntarily and of your
8 own free will?

9 THE DEFENDANT: Yes.

10 THE COURT: Then I'll ask you now, how do you plead as
11 to the charge in the information, guilty or not guilty?

12 THE DEFENDANT: Guilty.

13 THE COURT: Does the government wish me to allocute
14 the defendant as to the forfeiture allegation?

15 MS. GAFFNEY: Yes, your Honor.

16 THE COURT: Mr. Santos, the information contains what
17 is known as a forfeiture allegation. And what this provision
18 of the information does is that it puts you on notice that the
19 government seeks to recover from you all property -- real and
20 personal -- involved in the money laundering offense that you
21 just pleaded guilty to, as well as all property that's
22 traceable to such property.

23 Do you admit the forfeiture allegation that's set
24 forth in the information?

25 THE DEFENDANT: Yes.

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1 THE COURT: Mr. Santos, because you acknowledge that
2 you're guilty as charged in the information, because I find you
3 know your rights and you're waiving them knowingly and
4 voluntarily, because I find your plea is entered knowingly and
5 voluntarily, and is supported by an independent basis-in-fact
6 containing each of the essential elements of the offense, I
7 accept your guilty plea and adjudge you guilty to the offense
8 to which you have pleaded guilty.

9 I will order a presentence report. I ask you to
10 cooperate with the people preparing the report, because it will
11 be important to me in making my decision as to what your
12 sentence will be. You and your attorney will have an
13 opportunity to review the presentence report before sentencing.
14 I urge you to review it carefully with your attorney before
15 sentencing. If there are any errors in the report, please
16 point them out to your attorney so that he can point them out
17 to me, so that I don't proceed on the basis of mistaken
18 information.

19 I'm going to put down sentencing for March 12th, 2015
20 at 2:30. Any written submissions by defense counsel are due on
21 February 26th. Any sentencing submissions by the government
22 are due on March 5th, 2015.

23 Are there any applications with respect to bail?

24 MR. HOLLEMBEAK: No, your Honor.

25 THE COURT: Ordinarily, would it be necessary for the

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1 defendant to be remanded at this point?

2 MS. GAFFNEY: Yes, your Honor.

3 THE COURT: And you have no application in that
4 regard, Mr. Hollembeak?

5 MR. HOLLEMBEAK: No, your Honor.

6 But I did understand that the terms of his current
7 bail package would simply continue until sentencing from our
8 discussions with AUSA Bove.

9 THE COURT: Let me just look at the Bail Reform Act
10 for a moment.

11 What's the government's position with respect to bail?

12 MS. GAFFNEY: Your Honor, I am standing in for a
13 colleague, AUSA Bove. I am not sure what his position on bail
14 is. I am prepared to rely on the representations of defense
15 counsel, if they have come to some agreement, and I have also
16 just sent him an email to try and ascertain what his position
17 is on this.

18 It's my understanding under the statute that remand is
19 generally what happens here. But I'm gathering more
20 information.

21 THE COURT: All right.

22 I'm looking at the Bail Reform Act; specifically, I'm
23 looking at Section 3143 of Title 18. And this is not a crime
24 of violence, nor is it a controlled substance offense, nor is
25 it an offense for which the maximum sentence is life

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1 imprisonment or death. So it does not fall within Section
2 3143(a)(2).

3 Under Section 3143(a), Congress instructs, "The
4 judicial officer shall order that a person who has been found
5 guilty of an offense, and who is awaiting imposition or
6 execution of sentence, other than a person for whom the
7 applicable guideline promulgated pursuant to 28 U.S.C. 994 does
8 not recommend a term of imprisonment, be detained, unless the
9 judicial officer finds by clear and convincing evidence that
10 the person is not likely to flee or pose a danger to the safety
11 of any other person or the community if released.

12 "If the judicial officer makes such a finding, such
13 judicial officer shall order the release of the person in
14 accordance with Section 3142(b) or (c)."

15 So I don't have anything in front of me regarding
16 Mr. Santos's ties with the community. I am familiar with the
17 terms of his current bail package, but I would not be
18 comfortable making a finding under 3143 without review of the
19 pretrial services report.

20 Does anyone have the pretrial services report or has
21 that been returned to the pretrial services officer?

22 MS. GAFFNEY: The government does not have a copy of
23 it.

24 THE COURT: Mr. Hollembeak, do you have a copy of it?

25 MR. HOLLEMBEAK: I don't have one here with me, no.

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1 THE COURT: All right. So what I'm going to do with
2 respect to bail is I will continue the current package, which I
3 understand to be a \$250,000 personal recognizance bond secured
4 by the signature of one financially-responsible person, as well
5 as equity in a residence in Elizabeth, New Jersey. But I'm
6 going to put the matter down for a hearing to review the
7 propriety of that package in light of the defendant's guilty
8 plea, because, as I indicated, I have to make certain findings
9 on the record as to whether there's clear and convincing
10 evidence that Mr. Santos is not likely to flee, nor that he
11 faces or poses a danger to the community. So in order for me
12 to do that, I need to have a lot more background information
13 concerning Mr. Santos than I have now.

14 So, Mr. Ruocco, can we put this on for some time, say,
15 early Friday morning perhaps.

16 All right. I'm going to put it down for 3 o'clock on
17 Friday. We'll contact pretrial services directly about the
18 pretrial services report.

19 Between then and now, Ms. Gaffney, you'll tell
20 Mr. Bove that this issue came up, and that I need to know what
21 the government's position is on bail.

22 MS. GAFFNEY: Absolutely, your Honor.

23 THE COURT: All right. So the current package remains
24 in effect.

25 I will conduct a hearing at 3 o'clock on Friday to

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1 determine whether that package will remain in effect or whether
2 it's necessary to remand the defendant pending sentencing.

3 Anything else we should discuss today?

4 MS. GAFFNEY: Not from the government, your Honor.

5 MR. HOLLEMBEAK: Nothing from the defense.

6 THE COURT: All right.

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